

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-007-00215A¹

Parcel No. 891415151014

Gale Bonsall,

Appellant,

vs.

Black Hawk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 8, 2021. Gale Bonsall was self-represented. Assistant County Attorney Michael Treinen represented the Black Hawk County Board of Review.

Bonsall owns a parcel located on Union Road in Cedar Falls, Iowa. Its January 1, 2021 assessment was set at \$122,700, allocated as \$122,600 in land value, and \$100 in improvement value. It is classified as residential. (Ex. A).

Bonsall petitioned the Board of Review claiming the subject parcel's assessment is for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review denied the petition.

Bonsall reasserted his overassessment claim to PAAB.

¹ Bonsall's appeal form identified the subject property as agriculturally classified realty. However, the record reflects the property is classified residential. Bonsall did not assert his property was misclassified to either the Board of Review or to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject parcel is a 4.760 acres site located on Union Road in Cedar Rapids. It is listed as having a 20-foot by 40-foot utility building assessed at \$100. The first acre is valued at a \$100,000-unit price with a -\$15,000 adjustment applied for vacancy. The remaining 3.760 acres are valued as excess land at a unit price of \$10,000. The subject receives a forest reserve exemption for the 3.76 acres, reducing the net assessment to \$85,100. (Ex. A).

Bonsall purchased the subject parcel in October 2018 for \$190,000, but testified he paid \$8,000 to remove trees and debris from the property, which he asserts reduced the sale price to \$182,000. (Exs. 1-7). Bonsall also indicated the open sided pole building has been removed along with that debris. (11-17-2021 Appeal statement). He states that although the assessor's office classified the property residential, the current zoning of the subject property is A-1 agricultural. The property record card and Beacon sheet for the subject reflects it has been classified residential since at least 2017. (Appeal statement p 1-2 & Ex. A).

Bonsall, a long-time real estate professional in Cedar Falls, described the parcel as having more than 300 trees, many of which are dead and dying. (Ex. C , attachment). He contends this impacts the market appeal and value of the parcel and will cost approximately \$95,000 to cut and clear.² He submitted a bid to clear the property for potential development of \$27,500. Bonsall also noted the parcel is only 170 feet wide, which makes building a road and achieving the necessary setbacks difficult for development purposes. For these reasons, he believes the subject is a unique parcel.

Bonsall offered four unimproved, agriculturally classified parcels near the subject that he believes support his claim. (Statement of appeal and comps 1-4). The following table summarizes these parcels.

Comp	Parcel No.	2021 Class	Acres	2021 Assessed Value	Assessed Value per acre
1	891415326001	Ag	40.00	\$65,430	\$1,635.75
2	891415401001	Ag	40.00	\$62,980	\$1,574.50
3	891415376002	Ag	37.86	\$61,180	\$1,615.95
4	891415151019	Ag	18.53	\$29,450	\$1,589.31

Comparable 1 has not recently sold. Comparables 2, 3, and 4 have sold within the last three years, but all of the transactions were for multiple parcels of agricultural land. None of the sales appear to reflect a use of the site for residential purpose. Because all of the properties are assessed as agriculturally classified, they cannot be compared to the subject property's residentially classified assessment.

Bonsall also referenced a sale of unimproved development land to the east and south of the subject that sold for \$25,000 per acre. The record does not contain information about this sale, but it too was apparently zoned A-1 agricultural land.

² We note that cutting and clearing trees from the parcel may impact the property's eligibility for the forest reserve exemption. Under Iowa Code section 427C.4, "Not more than one-fifth of the total number of trees in any forest reservation may be removed in any one year, excepting in cases where the trees die naturally." To qualify for an exemption there must be "not less than two hundred growing forest trees on each acre." § 472C.3.

T.J. Koenigsfeld, Black Hawk County Assessor, provided a written appeal statement on behalf of the Board of Review. (Ex. D). He described the pricing of the subject's parcel as coinciding with the surrounding residentially classed parcels; that is the first acre is valued at \$100,000 and the excess acres are valued at \$10,000. He also noted a \$15,000 vacancy factor was applied for the lack of improvements. Koenigsfeld described a parcel directly south of the subject with 4.75 acres and a land value of \$137,500, but no vacancy factor was applied due to a dwelling being there. He acknowledged that should the subject parcel be built upon; the vacancy factor would be removed.

The Board of Review offered no witness testimony.

Analysis & Conclusions of Law

Bonsall asserts the subject parcel is over assessed. § 441.37(1)(a)(1)(b).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value.

Bonsall's evidence does not comport with the statutory scheme for property valuation, *i.e.*, comparable sales; nor does it shift the burden to the Board of Review to uphold the assessment. Although Bonsall has submitted properties with lower valuations, they are not comparable to the subject property this is due to their classification as agricultural properties, which cannot be considered comparable to the subject. Moreover, their classification as agricultural realty results in their different valuation as agricultural property is valued based on its productivity and net earning

capacity as required by Iowa law. § 441.21(1)(e). Moreover, simply comparing assessments of properties is not sufficient evidence to support Bonsall's claim.

For its part, the Board of Review supplied a comparable assessment of residential property valued the same as the subject. Moreover, the January 1, 2021 assessment is still far below Bonsall's 2018 purchase price of the subject.

Nevertheless, Bonsall did testify credibly that the pole building previously on his parcel has been removed. Accordingly, it would be appropriate to remove its \$100 assessed value from the January 1, 2021 assessment. And we will modify accordingly.

For Bonsall's benefit we will address the difference between property zoning and classification. For assessment purposes, real property is classified following rules promulgated by the Iowa Department of Revenue. See Iowa Admin. r. 701-71.1. The assessor shall classify property according to its present use. *Id.* Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. Iowa Admin. r. 701-71.1(2). There can be only one classification per property, except as provided for in paragraph 71.1(5) "b". Iowa Admin. r. 701-71.1(1). The determination of a property's classification "is to be decided on the basis of its primary use." *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). The zoning of a parcel is not necessarily controlling in regards to its classification for assessment purposes.

Agricultural land is defined by subrule 701-71.1(3), which provides in pertinent part:

Agricultural real estate shall include all tracts of land and the improvements and structures located on them *which are in good faith used primarily for agricultural purposes* except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, *all for intended profit*. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph "a" or "b" of this subrule. . . . [Emphasis added]

As previously noted, agriculturally classified property is to be valued based on productivity and net earning capacity of the property determined on the basis of its use for agricultural purposes, using a formula adopted by rule. Iowa Code § 441.21(1)(e).

Residential property “shall include all land and buildings which are primarily used or intended for human habitation.” R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id.*

Residential property is to be valued at market value. § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.*

We find the record here lacks any evidence demonstrating agricultural use is presently taking place on the subject property with an intent to profit. Moreover, agricultural use would likely nullify Bonsall’s forest reserve exemption. Accordingly, even though Bonsall failed to raise a misclassification claim, none appears to exist here.

Viewing the record as a whole, we find the Bonsall proved his property was valued for more than authorized by law only based on evidence that a pole building had been removed from the property. He failed to prove his property was otherwise over assessed.

Order

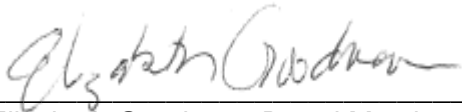
PAAB HEREBY Modifies the Black Hawk County Board of Review’s action and orders the improvement value of the subject property be reduced to \$0 (zero) and the land value remain at \$122,600 for a total assessment of \$122,600.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 30 days of the date of this Order and comply with the requirements of PAAB

administrative rules. Such application will stay the period for filing a judicial review action.

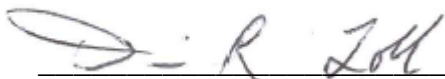
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member

Copies to:

Gale Bonsall by eFile

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